

## Palmerston Island: End of the "British Arikī"?

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### THE HISTORICAL BACKGROUND

Almost lost in Polynesia's vast expanses are two very small but special islands whose inhabitants, at least in historical times, from birth have spoken either only English or a hybrid English-Polynesian idiom. Renowned is, of course, Pitcairn Island, whose remnant population to a large degree can still claim descent from the infamous eighteenth-century mutineers of HMS *Bounty* and their Tahitian companions. Nearly unknown to the world, on the other hand, is the fascinating story of Palmerston Island in the Cook archipelago.

About 500 kilometers northwest of the Cook Islands' seat of government on Rarotonga, Palmerston atoll's coral reef encloses a broad azure lagoon—seven kilometers in breadth and eleven kilometers in length along a north-south axis (Helm and Percival 1973). The reef lacks a channel for larger vessels; only three narrow passages allow small craft access to the lagoon. The atoll's 2.6 square kilometers (one square mile) of land comprise six main islets of sand and coral rubble; there are several smaller islets and sandbanks. Though land fertility is low, annual rainfall is good: over 220 centimeters. However, poor storage capability makes water supply a continuous worry for the atoll's single community occupying little Palmerston Island on the west side of the atoll. Savage hurricanes send large destructive waves washing over Palmerston Island at sporadic intervals: 1883, 1914, 1923, 1926, 1931, 1935, 1942, 1967, and 1991 (Edward Marsters, personal communication, 1998).

Palmerston atoll offers limited exploitable resources: fish, turtles, seaweed, coral, shellfish, crustaceans, seabirds, and some introduced plants (Crocombe and Marsters 1987). Just as in Polynesian antiquity, domesticated animals are dogs, pigs, and fowls. Most of the few families who today remain on Palmerston tend arrowroot plots as well as double rows of tall coconut palms which (with *puka* trees) also serve to mark family land boundaries. Because of the island's general lack of marketable resources—and exorbitant transport costs to anywhere—Palmerston conducts no regular trade with the outside world. Every family on Palmerston practices modified self-sufficiency. That is, all non-subsistence goods (if not a gift) and services must be financed through the occasional sale of copra, limited government employment, or ever-increasing maintenance from relatives in Rarotonga or, in most cases, New Zealand. Educational and medical services, of restricted amount

and sporadic duration, are provided by the Cook Islands central government on Rarotonga. Because of such strictures, Palmerston's population is rapidly declining. In 1959, 95 Palmerston Islanders still occupied the island of their birth; in 1998, however, only 55 remain. Similar, once again, to Pitcairn Island, this is not a sustainable population.

The near-channelless atoll was first settled in prehistoric times by neighboring Cook Islanders who subsequently abandoned what was then—with typical Polynesian facetiousness—called, in Cook Islands Māori, *Ava Rau* ("Two Hundred Channels") (Gill 1915; Kloosterman 1976). Palmerston was first encountered by the Western world on June 16, 1774, when James Cook, unaware of the then uninhabited atoll's Māori label, named it in honor of the First Lord of the Admiralty, Lord Palmerston. In the first half of the nineteenth century various

Europeans resided here for varying periods but no one settled permanently.

In the 1850s, Englishman Jeffrey Strickland, by right of sole occupancy, claimed "ownership" of the entire atoll which then still lay outside the dominion of any nation. He soon sold his "rights" to Palmerston atoll to a Captain Bowles who, in turn, in the early 1860s sold this to the powerful British-born plantation owner John Brander of Tahiti. (This was the same John Brander who, nearly ten years later, would establish Rapa Nui's infamous sheep ranch.) In 1863 Brander sent his personal man—ship's carpenter and cooper William Masters, who allegedly came from Gloucestershire, England—to Palmerston Island with instructions to supervise a handful of indentured "Tahitian" laborers in the planting of coconut palms and the production of copra.

William Masters hailed tiny Palmerston Island on July 8, 1863. It was an historic occasion. He disembarked with his two Penrhyn (Cook Islands) wives, Akakaingaro and her younger sister Tepou Tenioi and two children; a third sister, Matavia, soon joined them there. With each of the three sisters Masters founded a separate family. Though perhaps shocking and contrary to the Christian morality of the Victorian England he had quit forever, Masters's polygamy nonetheless conformed with Penrhyn traditional custom, whereby it was common for chiefs to marry two sisters. Perhaps more pertinent in this regard is the fact that, at the time, Palmerston Island lay beyond the jurisdiction of the moral or legal authority of any institution or nation on earth. Masters's introduction to Palmerston of adequate water and food storage



facilities, together with the occasional relief supplies from his employer John Brander in Tahiti, enabled the establishment there of a small but permanent settlement—consisting of William Masters, his three Penrhyn wives, and their communal children. Indentured “Tahitian” laborers came and went with each supply vessel as was required for the seasonal copra planting and production.

In this way, by virtue of sole occupancy, William Masters and his growing family of British-Polynesian descendants made Palmerston atoll a dynastic possession. Everyone on the island communicated in Masters’s own idiomatic Gloucestershire dialect of English: for example, imitating their father’s characteristic speech the children called themselves not Masters but “Marsters”—the name his descendants legally bear today. William “Marsters” (as he shall henceforth be referred to), ruling patriarchically over his three wives and eventually twenty-one children, was now manifestly the island’s new “British *ariki*.” Or so opined William Marsters himself, who had no intention of ever abandoning his isolated and fertile island home.

In 1867 a certain Lavington Evans applied to the British High Commission in Fiji for “permission” to cultivate Palmerston atoll, and was promptly awarded a “license” valid for a period of seven years. (At the time, Great Britain held no authority in the Cook Islands; only local chiefs or *ariki* exercised authority there.) However, Evans gave testimony with his application that the island was then uninhabited, which was untrue. John Brander, the atoll’s nominal “owner”, also applied to the British High Commission for a license to cultivate Palmerston, but was denied one—on the grounds that Evans already held the license! Perhaps Brander’s subsequent counterclaim that Marsters was manifestly occupying and cultivating Palmerston on his (Brander’s) behalf explains why Evans never acted on his British “license”, which eventually expired.

Several years later John Brander, who had financed Marsters’s settlement and had regularly supplied the island with goods—indeed, who had financially and materially made life possible there in the first place—began contesting Marsters’s own claims of “ownership” of Palmerston. However, Brander died in 1877 before formal litigation against Marsters was begun.

Early in 1888, William Marsters himself, possibly fearing expulsion from the atoll by Brander’s inheritors, applied directly to the British High Commission for the Western Pacific in Fiji. He astutely appreciated how the British Crown was now exercising a nominal jurisdiction over Central and Western Pacific regions: that is, how it was often granting leases and licenses to otherwise uninhabited and unclaimed islands there (Crocombe and Marsters 1987: 205-6). In this way Marsters perhaps believed he would also circumvent any possible claims made against him from within the French jurisdiction of “French Polynesia”—only as of 1885 becoming a colonial system of government with far-reaching powers, in direct competition with Great Britain’s own expansionist intentions in the South Pacific.

The British Crown immediately recognized Marsters’s application from the Cooks. On July 24, 1888, it issued Marsters with a “temporary lease” to Palmerston atoll. On May 23, 1891, during a visit to Palmerston by Commander C. L. Kingsmill of

the Royal Navy, the question of a “permanent lease” was discussed with Marsters in detail. One year later the British High Commission granted Marsters a “license” to occupy Palmerston for 21 years—by virtue of his claiming “long exclusive possession” and of his having planted, “at his own expense,” it was acknowledged, 200,000 coconut plants (the Brander family’s early investment was disregarded). This “license” was issued likewise by the British Crown, though the Crown actually possessed no legal jurisdiction over the stateless island at the time. In 1888 Great Britain had unilaterally declared the Cook Islands to be its “Protectorate”, ostensibly to fend off French encroachment. None of the Cook Islands formed part of the British Dominions until the archipelago came under New Zealand jurisdiction on June 11, 1901, when the Cook Islands Administration was created.

The Marsters family’s permanent lease to Palmerston, at an annual rent of £25 (as of 1924 £50), was subsequently renewed every ten years by a series of similar leases issued by the Cook Islands Administration. In 1946, A. McCarthy, Deputy Resident Commissioner on Rarotonga, on behalf of the New Zealand government signed an agreement drafted by the Palmerston Islanders themselves declaring, among other things, that, “No Resident Agent is allowed to come onto the Island and rule, picked by the Resident Commissioner. Palmerston will pick its own Resident Agent to rule the Island, not by the Government.”

In 1953 the Marsters’ license expired and, this time, was not renewed. In 1954, New Zealand, through act of Parliament, vested the atoll *permanently* in the “Native inhabitants of the Island of Palmerston and their descendants” who were described in the same act of Parliament as “the descendants of the said William Masters.” Palmerston atoll, by government act, became one family’s property. However, this right to ownership was restricted to those descendants of William Marsters who still lived on the atoll in 1954 and to their descendants, irregardless of residency. They, and they alone, possessed any rights to Palmerston atoll (Crocombe and Marsters 1987: 221). Ten acres of Palmerston Island were reserved permanently for government use.

The issue of local land tenure was another matter altogether. The coming of age of William Marsters’s many sons in the 1880s also saw the first land disputes within the atoll. It became evident to the aging Marsters that the atoll’s land rights had to be legalized in some orderly fashion in order to control sharing. In this way a traditional land tenure system developed over the years that, largely unwritten and unrecorded, functioned adequately for the few islanders’ needs. Unfortunately, natural population growth could not be sustained by the atoll’s limited resources. As a result, emigration—at first mainly to Rarotonga, later to New Zealand—became the sole recourse for those Palmerston Islanders with any ambition.

Palmerston’s land tenure system is, in fact, rare in Polynesia (Crocombe 1961, 1964, 1971; Crocombe and Marsters 1987: 202). It evolved in almost complete isolation, subject to no one’s jurisdiction and hardly beholden to any precedent. At the end of the nineteenth century, one man alone, William Marsters, held all land rights there.

In 1898, Marsters, after 35 years on the island, old and infirm, paced out and compassed “Home Island”—as Palmerston Island was always called by the Marsters family—and then

divided it into three equal portions among the children of his three wives. Palmerston reef and lagoon were declared to be common property.

William Marsters died soon thereafter. In the two years that followed the patriarch's death a dispute arose among the seventeen half-brothers concerning who should replace their father as Family Head or *ariki*. The British Resident at Rarotonga, Colonel W. E. Gudgeon, visited Palmerston Island in 1901 to assess the situation among the sixty Marsters who, he discovered, occupied the atoll in apparent peace. In consideration of William Marsters's written will and testament, Colonel Gudgeon appointed William's eldest son by his senior wife Akakaingaro, Joel Marsters, to be the new "chief of the island", as well as Agent to the British Resident at Rarotonga and Magistrate for Palmerston. In this way Gudgeon was combining British administrative succession with Polynesian dynastic succession, whereby the eldest son of the senior wife succeeded the father in all property claims. However, by doing so the British Crown was also officially confirming the dynastic status of the seeming "British *ariki*" of Palmerston atoll, a legal precedent whose historical significance would have been obvious to the British Resident as regional representative of the Crown.

As Palmerston's new Family Head or *ariki*, Joel Marsters thereupon established the first Island Council. The *mata'iapo* (head of a sub-tribe)—in Palmerston's unique case the word signifies the eldest resident son of each of the three Palmerston mothers (Akakaingaro, Tepou Tenioi, and Matavia)—were officially recognized as the Heads of the three Families and also as the key members of the Island Council. There were six Council members in all, who comprised the senior members within the three Families (two from each Family: that is, one Head and one Second). Members were appointed, not elected. The positions were honorary; there was no remuneration. This structure functioned well from 1901 up to 1980 (when the Council, by national Cook Island law, was directed to consist of only three elected members, not family chiefs; the newly imposed structure led to immediate land tenure problems, since the three elected members lacked local power over land matters).

After 1901, new land laws in the atoll were agreed upon between William Marsters's descendants *ad hoc* as they arose. For example, the other islets of Palmerston atoll (North Island, Leicester, Tom's, Cook's, Primrose, and others) were divided up in equal portions by mutual agreement. When social pressures grew, new laws were similarly negotiated, at Island Council level. In its essence, traditional Palmerston law states that all rights on Palmerston devolve from William Marsters alone; in the case where both parents are direct descendants of William Marsters, then male lineage will determine the legal division of the land. By the end of the twentieth century, Marster's direct descendants claimed, by right of inheritance, distinct land rights on tiny Palmerston Island that were acknowledged to obtain on no fewer than ten separate levels. It is one of Polynesia's most complex systems of traditional land tenure, one that, because of external intervention, has been thrown into "an increasingly complex framework of law and culture" (Crocombe and Marsters 1987: 205).

In April of 1965, on the creation of the semi-autonomous Cook Islands government (in free association with New Zealand), new rights of control over Palmerston atoll were

instituted at the higher government level. However, 22 years later, in their comprehensive documentation of the Palmerston land tenure situation Crocombe and Marsters (1987: 206) could positively report that these new rights of control by the central government in Rarotonga still "have not been exercised to any significant degree" on Palmerston.

Now, eleven years after Crocombe and Marsters's positive report, this traditional system of control is seemingly being unilaterally replaced by Rarotongan decree. This is apparently occurring without previous consultation with, or endorsement from, the Palmerston Island Council or the traditional Palmerston Island *ariki*, the senior resident male descendant of William Marsters by his senior wife Akakaingaro (William Marsters, personal communication, 1996). A development that is unique in the atoll's brief human history, it appears to signal the end of traditional Palmerston Island "autonomy", despite earlier Crown and more recent Cook Islands parliamentary guarantees to the contrary.

#### "WE OWE THIS TO OUR ANCESTORS"

Palmerston's local system of government and land control—that has well served its tiny population up into the 1990s—has always been immediate and traditional. However, this local system of governing and land tenure is now being forced to yield to the "sovereign rights" of the central government of the Cook Islands, which understands the concept of control and land tenure in a larger, pan-Cook Islands practice that is perhaps incompatible with Palmerston's unique traditional system. This new dimension of an archipelago-wide, homogeneous system of government and land control being implemented on Palmerston, one so alien to the past five generations of Palmerston Islanders with their specific single-family land tenure needs, has now led to direct—and painful—conflict with the central government of the Cook Islands.

The present difficulty began in 1980. In that year the national law of the Cook Islands directed that the older traditional Island Council, which had been functioning well since 1901, conform to the nationally prescribed structure of three *elected* Council members only. Once introduced on Palmerston Island, however, this new structure immediately led to land tenure disputes, since the three elected Island Council members lacked the familial authority to settle local land matters. Such power on Palmerston lies only with the island's *ariki* and *mata'iapo*, the eldest resident sons of each of the three founding Palmerston mothers (Akakaingaro, Tepou Tenioi, and Matavia).

Because of these difficulties on Palmerston Island, the central government of the Cook Islands on Rarotonga decided unilaterally, in 1987, to appoint a new Government Representative. Since 1901, the sole representative of the central government in Rarotonga had always been the "chief of the island," "Agent to the British Resident at Rarotonga" and "Magistrate for Palmerston": the eldest resident male of the Akakaingaro Family, the dominant lineage, as had been officially recognized by the Crown. In 1987 this Palmerston *ariki* was the Reverend William Marsters, the island's Christian pastor. But the newly appointed Government Representative from Rarotonga, although a Palmerston Islander by birth, was not a member of the island's elders nor of the dominant Akakaingaro Family. This situation led to considerable friction between the authorities in



Rarotonga and the local administration on Palmerston.

In consequence, in 1988 the elders of Palmerston drew up papers detailing the customary and traditional laws of Palmerston Island. They defined the local powers of the Island Council as well. A new draft of the Palmerston Local Government Act was drawn up and submitted the following year, in 1989, to the Prime Minister of the Cook Islands.

The Prime Minister made several suggestions of his own to the Palmerston elders' Act, including the participation of women in the Island Council. Then he referred the Palmerston Islanders to a third party, a Rarotongan solicitor, in order to draw up a formal draft of the new Palmerston Local Government Act. After much debate, the elders finally approved of women participating in the Island Council, the most contentious paragraph of the new Act. The drafting of the formal Act together with this third party was constructive and positive (William Marsters, personal communication, 1996). The work was completed in 1990 and the Act found the unanimous acceptance of the elders—since it recognized Palmerston custom and traditional law—and of the third party, who was acting also for the Prime Minister. This formal draft of the Palmerston Local Government Act was then referred to the Solicitor General for his approval before being submitted to the Cook Islands Parliament.

On September 14, 1993, this final draft of the Palmerston Local Government Act was presented to Parliament and unanimously ratified. Almost immediately thereafter, other islands in the Cook archipelago expressed their desire also to restructure their Island Council in order to include as key members their *ariki* and *mata'iapo*. The Palmerston elders were assured by the then Secretary of the Prime Minister's Department that implementation of the Palmerston Local Government Act would take place in 1995, when all the Cook Islands would again re-elect their respective members to the local Island Councils (William Marsters, personal communication, 1996).

Early in 1995, Palmerston's elders were informed by the Secretary of the Prime Minister's Department, through the Acting Government Representative on Palmerston, David Tom Marsters, that the time had come for the "appointment of members to our Island Council based on our [Palmerston] Local Government Act" (Marsters 1995:3). Two days before the official appointment, the three Families met separately to discuss the appointments in accordance with the Act, notices of this having been issued by the Family Head or *ariki*, the Reverend William Marsters. The appointments were duly made, including those of women, and the results were then reported to the Secretary of the Prime Minister's Department in Rarotonga.

The elders awaited confirmation of the appointments in order to proceed with the mandatory swearing-in ceremony. However, no confirmation from Rarotonga was forthcoming.

Instead, to the elders' surprise, in July of 1995 Taepae Tuteru, Director for Outer Island Affairs from Rarotonga, and Jane Dean, non-resident Palmerston Islander and its newly appointed Government Representative, were announced by the Secretary of the Prime Minister's Department as being on their way to the island "to reconduct the appointment of members to the Island Council" (Marsters 1995:4). This unexpected turn of events was termed "drastic" by the Reverend William Marsters, who wrote: "This move by the Central Government has endan-

gered the relationship between the Local Government and the Central Government."

The day after the arrival on Palmerston of the two government officials from Rarotonga, a public meeting was held in Palmerston's Water Catchment, chaired by the Director for Outer Island Affairs. The Rarotongans explained they were there to conduct the appointments for the Island Council. *Ariki* William Marsters, as Family Head, countered that this had already been carried out, and according to the Palmerston Local Government Act. However, several locals expressed their displeasure with the new Act; they wished to see it "abolished". The Director for Outer Island Affairs insisted that the Act be followed, regardless of any local objections. Because of continuing dissent, William Marsters appealed for a decision by the Solicitor General in Rarotonga on the matter, and so the meeting was removed to the Government Office where the Solicitor General could be contacted by radio. The Solicitor General confirmed that the Palmerston Local Government Act had to be followed in the appointment of the Island Council.

The next day, William Marsters received a letter from the visiting Director for Outer Island Affairs (one must appreciate that Palmerston Island can be crossed on foot in five minutes) informing him that the Director had called a meeting of the Akakaingaro Family to be held the following day. Marsters summarily informed the Director that he alone (William Marsters), as Family Head, was authorized to convene a meeting of the Akakaingaro Family. The Director conducted this meeting nevertheless, during which he appointed Tuakana Marsters—who had been one of the dissenters who had called for the rescinding of the Act—as member to the Island Council. The elders of the Island Council had boycotted this meeting, but for Tuakana Marsters and one other member.

On the following day, a similar meeting was arranged for the Tepou Family. The entire family attended, and arguments swelled. Again the meeting was chaired by the Director for Outer Island Affairs, together with Jane Dean, the new Government Representative. And again a member for the Island Council was chosen, this time by election. Melbourne Marsters won by six votes, Taepae Marsters—another of those who had called for the rescinding of the Act—was runner-up with five votes. But the Director for Outer Island Affairs and the new Government Representative nullified the election and instead appointed to the Island Council Taepae Marsters, the runner-up.

After this, the Director for Outer Island Affairs and the new Government Representative met with Bob Marsters, Senior, of the Matavia Family and, contrary to the earlier appointment according to the Palmerston Local Government Act, reinstated him as Head of the Matavia Family, with George Marsters as Second.

Chairman of the Island Council and Mayor of Palmerston was still the Reverend William Marsters, who was also Head of the Akakaingaro Family, with Tuakana Marsters now as Second.

At their first meeting of the Palmerston Island Council the elders voted that all those appointments made by the Director of Outer Island Affairs and the new Government Representative were invalid, and that these newly "elected" members had no right to sit on the Island Council. In addition, because the Director and the new Government Representative had violated the Palmerston Local Government Act they were henceforth to

be barred from all future meetings of Palmerston's Island Council.

Jane Dean, the Government Representative, appealed to Rarotonga. Her authority was immediately confirmed. However, the Island Council continued to refuse to cooperate with her: she had, they claimed, contravened the terms of the Palmerston Local Government Act. Appeals to Rarotonga by the elders were subsequently ignored. The local Palmerston police then intervened to support the new Government Representative, not the Island Council.

In 1996, the Reverend William Marsters, his patience exhausted, telegraphed the Central Government in Rarotonga insisting they recall the Government Representative Jane Dean ("or she will be arrested and deported"); the Director for Outer Island Affairs was never again to set foot on Palmerston, Marsters added ("if he do [sic] he will be arrested, the ransom price is one-hundred thousand dollars stop"). The authority of the resident police constable was no longer recognized by the Island Council, he informed Rarotonga as well; two new police constables had been appointed in his place. The Island Council then set a deadline by which time they demanded some sort of a response from Rarotonga, which until then had ignored all previous communications. If the Island Council were to continue to hear nothing from Rarotonga, Marsters then telegraphed, they were resolved "to arrest and deport [Jane Dean] . . . and take over all Central Government property on Palmerston". This final telegram to Rarotonga was signed: "Rev. William Marsters Mayor."

Whereupon the traditional *ariki* of Palmerston Island was arrested. He was transported under guard by Rarotonga's police launch, at a cost of \$24,000, to the capital to face charges brought by local Government Representative Jane Dean that he was resisting Cook Islands national law. After questioning by the authorities in Rarotonga, however, the erstwhile President of the Council of Churches of the Cook Islands was cleared of all charges. However, the obstruction of the Palmerston Local Government Act by the new Government Representative has continued to this day on Palmerston Island, Marsters has since alleged, despite the efforts of the Island Council to implement the Act.

It would appear that Jane Dean, the Government Representative on Palmerston, is not acting alone, but on Rarotonga's implicit instructions. The central government of the Cook Islands is apparently now determined to transfer most traditional rights on Palmerston Island—that is, those of the *ariki* and *mata'iaho*—to the government-appointed Representative, leaving to the Island Council, as it were, mere ceremonial functions. One would gain the impression, then, that this at last represents Rarotonga's decisive replacement of traditional island government by those new rights of national control that had been instituted on the creation of the Cook Islands as a semi-autonomous nation in April of 1965. However, the Central Government on Rarotonga only superficially administers *de jure* on Palmerston, since this clearly contradicts the Palmerston Local Government Act as ratified by the Cook Islands Parliament on September 14, 1993. In fact, such national control expressly contravenes Cook Islands law.

A written appeal on behalf of the Reverend Marsters to Her Majesty the Queen in London, Head of the Commonwealth,

pointing out these problems on Palmerston Island brought the reply from Buckingham Palace, dated September 12, 1996, that "Her Majesty would not become involved in matters such as the appointment of Government Representatives to Palmerston Island, as this is a matter for the Cook Islands Government."

As this article was going to press, the man who might well be the last "British *ariki*" of Palmerston, the Reverend William Marsters, now 73, in a calm and dignified manner assured the author he would sooner die than give up his fight for his island's traditional—and parliamentary—rights.

"It is a question of honor," he said quietly. "We owe this to our ancestors."

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